

## **REMARKS**

### **Amendments to the Claims**

Claims 1, 2, 5-14, 17-21 are currently pending for the Examiner's review and consideration. Claims 7-11, 14, and 17-21 have been withdrawn from examination. Claims 1, 2, 5, 6, 12, and 13 are currently under examination. Claim 5 has been amended in accordance with the Examiner's suggestion to incorporate the features of claim 1. Claim 5 is thus thought to be allowable. Claim 13 has also been amended. Claims 22 and 23 have been cancelled without prejudice or disclaimer to the subject matter therein. Claims 3, 4, 15, and 16 were previously cancelled. The amendments to the claims do not introduce prohibited new matter.

### **Rejection under 35 U.S.C. § 112, second paragraph**

Claim 13 is rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Without acquiescing to the merits of this rejection, claim 13 has been amended. Claim 13, as amended, recites a transfected cell line, which is clear and distinct. Accordingly, Applicants believe that the basis for this rejection is moot, and therefore respectfully request that it be withdrawn.

### **Rejection under 35 U.S.C. § 112, first paragraph**

Claims 22 and 23 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing the enablement requirement.

Without acquiescing to the merits of this rejection, claims 22 and 23 have been canceled. Accordingly, Applicants believe that this rejection is moot and respectfully request that it be withdrawn.

### **Rejection under 35 U.S.C. § 102(b)**

Claim 1, 2, and 6 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Shao and Zhou.

Applicants note that Shao and Zhou are currently named inventors of the present invention. The sequence of Shao and Zhou was published August 11, 2003 (*see* Exhibit 1,

attached). The present invention claims priority to December 24, 2002. The date on locus line is the date the record was last made public (see Baxevanis et al. Bioinformatics: a practical guide to the analysis of genes and proteins, 2d Ed. 2001, Wiley and Sons, p. 51, attached hereto). Thus, Shao and Zhou was published after the acknowledged priority date of the presently claimed invention and is accordingly not applicable as a prior art reference (see Corrected Filing Receipt of April 3, 2007). Accordingly, Shao and Zhou cannot anticipate the claimed invention. It is therefore respectfully requested that this rejection be withdrawn.

Claims 22 and 23 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wiemann.

Without acquiescing to the merits of this rejection, claims 22 and 23 have been canceled. Accordingly, Applicants believe that this rejection is moot and respectfully request that it be withdrawn.

#### Rejection under 35 U.S.C. § 103(a)

Claims 1, 2, 6, 12, and 13 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Shao and Zhou in view of Nakamura.

As discussed above, Shao and Zhou cannot be applied against the present claimed invention as Shao and Zhou published after the priority date of the claimed invention. The OPffice Action relies on Nakamura to disclose transfecting a cell line. While Nakamura discloses LAPTM4B, Nakamura teaches that this gene is down-regulated in prostate cancer. In contrast, SEQ ID NO: 1 and SEQ ID NO: 6 of the currently claimed invention are disclosed as up-regulated sequences. The sequences of the present invention have been identified as oncogenes. Nakamura does not teach the sequence as set forth in SEQ ID NO: 1 or SEQ ID NO: 6, and therefore does not overcome the deficiencies of Shao and Zhou to render the claimed invention obvious. Accordingly, it is respectfully requested that this rejection be withdrawn.

#### Conclusion

Applicants respectfully submit, in view of the foregoing remarks and the declarations submitted under 37 C.F.R. 1.132, that all the claims are now in condition for allowance. Should the Examiner disagree, Applicants respectfully request a telephonic or in-person interview with

the undersigned attorney to discuss any remaining issues and to expedite the eventual allowance of the claims.

**Except** for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **July 20, 2010**  
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Respectfully submitted,  
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